

**IN THE UNITED STATES BANKRUPTCY COURT
Eastern District of Virginia
Richmond Division**

**In re: Brenda D. Lee
Debtor**

**Case No. 17-33176-KLP
Chapter 13**

Address: 157 Bobcat Lane
Little Plymouth, VA 23091

Last four digits of Social Security No: xxx-xx-2155 (Debtor)

NOTICE OF OBJECTION TO CLAIM

The above named Debtor has filed an Objection to Claim in this bankruptcy case.

Your claim may be reduced, modified or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one.

If you do not want the Court to eliminate or change your claims, then no later than 30 days from the date of this notice, you or your attorney must:

File with the Court a written response to the objection, explaining your position, at:

Clerk of Court
United States Bankruptcy Court
701 E. Broad Street, Room 4000
Richmond, VA 23219

If you mail your response to the Court for filing, you must mail it early enough so that the Court will **receive** it on or before the date stated above.

You must also send a copy to:

Boleman Law Firm, P.C.
P.O. Box 11588
Richmond, VA 23230-1588

Mark C. Leffler (VSB #40712)
Boleman Law Firm, P.C.
P.O. Box 11588
Richmond, VA 23230-1588
Telephone (804) 358-9900
Counsel for Debtor

If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to your claim.

Dated: February 5, 2018

BOLEMAN LAW FIRM, P.C.
Counsel for Debtor

By: /s/ Mark C. Leffler
Mark C. Leffler (VSB #40712)
Boleman Law Firm, P.C.
P.O. Box 11588
Richmond, VA 23230-1588
Telephone (804) 358-9900
Counsel for Debtor

CERTIFICATE OF SERVICE

I certify that on February 5, 2018 a copy of the foregoing has been sent to the Chapter 13 Trustee via the Court's CM/ECF system and mailed via first class mail to the following:

Portfolio Recovery Associates, LLC
P.O. Box 41067
Norfolk, VA 23541

Brenda D. Lee
157 Bobcat Lane
Little Plymouth, VA 23091

/s/ Mark C. Leffler
Counsel for Debtor

**IN THE UNITED STATES BANKRUPTCY COURT
Eastern District of Virginia
Richmond Division**

**In re: Brenda D. Lee
Debtor**

**Case No. 17-33176-KLP
Chapter 13**

OBJECTION TO CLAIM NO. 13-1 AND MEMORANDUM IN SUPPORT

COMES NOW, Brenda D. Lee, by counsel, and files this Objection to the Proof of Claim (Claim No. 13-1) filed by Portfolio Recovery Associates, LLC (“PRA”), pursuant to 11 U.S.C. § 502, Federal Rules of Bankruptcy Procedure 3001, 3007 and 9014, and Local Bankruptcy Rules 3007-1 and 9013-1. In support of the Objection, Debtor respectfully states the following:

Jurisdiction

1. Jurisdiction of this Court over the instant matter is based upon 28 U.S.C. §§1334 and 157 in that this action arises in and relates to the bankruptcy case of the Debtor, a chapter 13 case having been filed in this Court on June 21, 2017.
2. This proceeding is a core proceeding under 28 U.S.C. §157(b)(2)(A), (B), (K), and (O).
3. Venue is proper pursuant to 28 U.S.C. §1409.

Parties

4. Brenda D. Lee (hereinafter the “Debtor”) is the debtor in this case.
5. Respondent Portfolio Recovery Associates, LLC (hereinafter “PRA”) is a Foreign Limited Liability Company registered with the Virginia State Corporation Commission that filed a proof of claim in the instant case.

Facts

6. PRA's Proof of Claim sets forth its claim as follows: Unsecured in the amount of \$341.92. It states it was acquired from Synchrony Bank.

7. PRA's claim states in Part 2, Box 7 of the Proof of Claim that no interest or other charges are included in the claim amount.

8. The only attachment to PRA's Proof of Claim form purports to be an account summary (the "account summary") setting forth the following information: (1) that the account was charged off on 03/17/2017, (2) that the "principal" is \$341.92, (3) "interest", "fee", and "cost" is \$0.00, and (4) the previous creditor is Synchrony Bank. Debtor denies the accuracy of these statements in the account statement.

9. PRA's claim relates to a credit card account on which interest and fees were regularly assessed. Debtor asserts that PRA's account statement does not properly, accurately, or truthfully itemize the interest, fees, and other costs embedded in the claim amount.

Discussion

10. Pursuant to 11 U.S.C. § 502(a), a claim is "deemed allowed, unless a party in interest . . . objects."

11. Pursuant to 11 U.S.C. § 502(b)(1), where an objection is made to a claim, the Court "shall determine the amount of such claim . . . and shall allow such claim in such amount, except to the extent that . . . [] such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law"

12. Pursuant to Federal Rules of Bankruptcy Procedure 3001(c)(2), "If, in addition to its principal amount, a claim includes interest, fees, expenses, or other charges incurred before

the petition was filed, an itemized statement of the interest, fees, expenses, or charges shall be filed with the proof of claim.”

13. Pursuant to Federal Rules of Bankruptcy Procedure 3001(c)(3)(B), “On written request by a party in interest, the holder of a claim based on an open-end or revolving consumer credit agreement shall, within 30 days after the request is sent, provide the requesting party a copy of the writing [upon which the claim is based].”

14. Pursuant to Federal Rules of Bankruptcy Procedure 3001(f), “a proof of claim executed and filed” in accordance with the rules “shall constitute prima facie evidence of the validity and amount of the claim.”

First Objection to Claim

15. PRA’s account statement falsely attests under oath that the claim amount includes \$0.00 in interest and \$0.00 in other charges.

16. Under Federal Rules of Bankruptcy Procedure 3001(c)(2)(D), and after further Motion by the Debtor, this Court should preclude PRA from presenting any evidence to the contrary of what it has sworn to in its claim, dismiss PRA’s claim, and award other appropriate relief, including reasonable expenses and attorneys’ fees.

Second Objection to Claim

17. Debtor’s Schedules do not include any debt to PRA and, accordingly, Debtor denies owing a debt to PRA and requests strict proof thereof.

18. Debtor specifically asserts, pursuant to 11 U.S.C. § 502(b)(1) and (9), that PRA cannot enforce this debt against her.

19. Debtor affirmatively asserts that PRA failed to attach the writing upon which PRA’s claim is based. Pursuant to Federal Rule of Bankruptcy Procedure 3001(c)(3)(B), the

Debtor hereby requests that PRA provide her with a copy of the writing upon which the claim is based, or a statement of the circumstances of the loss or destruction of such writing, within 30 days.

WHEREFORE, Debtor respectfully requests that the Court sustain this Objection to Claim, disallow the claim, grant Debtor leave to file a separate Motion seeking appropriate sanctions against PRA including the Debtor's reasonable attorney fees and expenses, and order such other and further relief as is just and proper.

Respectfully submitted,

Brenda D. Lee
By Counsel

By: /s/ Mark C. Leffler

Mark C. Leffler (VSB #40712)
Boleman Law Firm, P.C.
P.O. Box 11588
Richmond, VA 23230-1588
Telephone (804) 358-9900
Counsel for Debtor

CERTIFICATE OF SERVICE

I certify that on February 5, 2018 a copy of the foregoing has been sent to the Chapter 13 Trustee via the Court's CM/ECF system and mailed via first class mail to the following:

Portfolio Recovery Associates, LLC
P.O. Box 41067
Norfolk, VA 23541

Brenda D. Lee
157 Bobcat Lane
Little Plymouth, VA 23091

/s/ Mark C. Leffler
Counsel for Debtor